

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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ELAINE HARDY, Individually and as Special  
Administrator for the Estate of HOMER WOODRUFF

Plaintiff,

v.

Case No. 09-CV-355

CERTAINTIED CORPORATION,  
FOSTER WHEELER ENERGY CORPORATION,  
GARLOCK SEALING TECHNOLOGIES LLC,  
GENERAL ELECTRIC COMPANY,  
GENERAL REFRACTORIES COMPANY,  
GEORGIA-PACIFIC LLC,  
MAREMONT CORPORATION,  
OWENS-ILLINOIS INC.,  
RAPID AMERICAN CORP.,  
and UNION CARBIDE CORP.,

Defendants.

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**ORDER**

On October 7, 2009, this court issued an order providing the plaintiff twenty days to file a motion for default against three of the defendants, Garlock Sealing Technologies LLC (“Garlock”), Maremont Corporation (“Maremont”), Rapid American Corporation (“Rapid American”) or, in the alternative, if the three defendants had been served or waived service of process, the court allowed twenty days for the defendants to file a responsive pleading. Neither event occurred on October 27, 2009. Instead, the plaintiff filed a response with the court stating that she had been unable to contact the three aforementioned defendants and that the three defendants remain unserved. The plaintiff has requested the court “issue summons

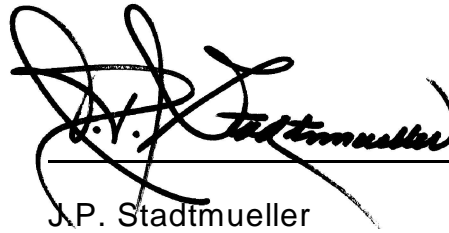
against Rapid American, Garlock and Maremont.” (Docket #18). The court finds this request peculiar given the plaintiff’s troubles with finding the three defendants. The court cannot have the litigation proceed against three defendants who have not been properly served or waived service of process. The duty to ensure that service or waiver of service occurs falls squarely on the shoulders of the plaintiff, not this court. Fed. R. Civ. P. 4(c)(1) (“The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m).”) As such, pursuant to the court’s October 7, 2009 Order (Docket #17), Fed. R. Civ. P. 4(m), and Civil L. R. 41.1, the court will dismiss the complaint against the three aforementioned defendants without prejudice.

Accordingly,

**IT IS ORDERED** the complaint (Docket #1) against Garlock Sealing Technologies, Maremont Corporation and Rapid American Corporation is **DISMISSED** without prejudice.

Dated at Milwaukee, Wisconsin, this 30th day of October, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized and cursive.

J.P. Stadtmueller  
U.S. District Judge